IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6783 OF 2005

Ketan Harish Tumane ..Petitioner.

Vs.

Fr.C.Rodrigues Institute of
Technology & anr. ..Respondents.

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Ms.P.D'Souza and Ms.B.D'Souza i/b M/s.M.P.Vashi & Associates for the Petitioner.

Mr.Raju More with Mr.V.S.Talkure for Respondent Nos.1 and 2.

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CORAM : F.I.REBELLO &

DR.D.Y.CHANDRACHUD, JJ.

25th October, 2005.

P.C. :

1. Rule. Heard forthwith.

2. The Petitioner by the present Petition seeks to challenge the punishment imposed on him by the Respondents having used unfair means at the

examination at which he had appeared in June 2005. On behalf of the Respondents, learned counsel has produced a compilation of documents in terms of the Ordinance of the Mumbai University. Ordinance 5050 provides that in a case where the examination is conducted by a constituent college, the authorities who can initiate the process have been set out. The competent authority is defined under Ordinance 5050(2). 'Unfair means' includes smuggling in blank or written answerbook and forging signature of the junior professor thereon. Ordinance 5050(6) sets out the procedure as to when the competent authority can place the matter before the unfair means enquiry committee for further investigation. There are other provisions as to the constitution of the committee and the procedure of the committee. Ordinance 5050 (11) sets out the punishment. 11(f) sets out that as far as possible the quantum of punishment shall be as prescribed in Appendix A. Appendix A sets out that in a case where the answer book, main or supplement is written outside the examination hall or any other insertion in an answer book then the punishment to be imposed would be the exclusion of the student

from university or college or institution examination for four additional examinations.

3. The documents were placed before us to show that the competent authority, based on the material available, was prima facie satisfied that there were unfair means used. Consequent thereupon a committee was constituted. The committee gave an opportunity to the Petitioner. In reply dated 20th September, 2005, the Petitioner set out that he could not recollect as to what had happened three and half months earlier. This was the only defence raised on behalf of the Petitioner. From the records produced, it is clear that a signature of the junior supervisor on the supplement is not that of the junior supervisor on the main answerbook. The records before the committee also showed there were interpolations in the supplement chart maintained by the junior supervisor. As the committee had not examined the two supervisors, their statement was also recorded by the principal and after considering all the material, the principal and the competent authority has issued punishment.

4. We are satisfied that there was material available with the Respondents for arriving at a conclusion which they have arrived at. We are further satisfied that a procedure has been followed in terms of the Ordinance quoted earlier and that the punishment is also in terms of Appendix-A. Considering the above, this would not be a case for this Court to exercise the extra-ordinary jurisdiction. Hence, the Petition is dismissed. Rule discharged. There shall be no order as to costs.

(F.I.REBELLO, J.)

(DR.D.Y.CHANDRACHUD, J.)